

Appl. No. 10/539,797
Amendment dated: July 14, 2008
Reply to OA of: April 14, 2008

REMARKS

Applicants have amended the claims to more particularly define the invention in view of the outstanding Official Action which is a restriction requirement. Applicants submit no new matter is introduced.

The restriction requirement urges that there are five separate and distinct inventions claimed in this application. Applicants elect the Group III invention which is drawn to an assay method for the determination of calprotectin and for a method of diagnosis of disease including claims 14-19 26, and 27, without traverse with respect to the inventions of Group I II and V. Applicants traverse the restriction requirement with respect to the Group IV invention for the following reasons.

In the amended claims, the claims relating to Groups I, II and V are deleted from the application without prejudice or disclaimer and subject to the right to file a divisional application thereto. The claims of groups IV are amended such that the kit requires a nanoparticle-bound antibody or antibody fragment of specific size, corresponding to the size range recited in claim 14. Furthermore, the use in a specific method is now explicitly recited, and in particular the use in combination with turbidimetric detection.

Applicants submit that the enclosed claims all related to the special technical combination of the specific sized nanoparticle binder, in combination with turbidimetry. This combination has been shown to be unexpectedly beneficial by Applicants and is not indicated in any of the prior art. This therefore provides a special technical feature which unites the claims as required by PCT Rule 13.1.

Moreover, Applicants most respectfully submit that no undue search burden is placed on the USPTO to search the invention of Groups III and IV together. This is especially true in view of the fact that the present application is the national phase of a PCT application and the search report should be in the file of this application as well as the prior art already of record.

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In view of the election of the Group III invention, with traverse as noted above, an early and favorable action on the merits is now believed to be in order and is most respectfully requested.

Respectfully submitted,
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